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|---|---|--------------------------------|
| U.S. APPLICATION NUMBER NO.<br>10/553,320 | FIRST NAMED APPLICANT<br>Yoshiko Takayama | ATTY. DOCKET NO.<br>2005_1592A |
|---|---|--------------------------------|

INTERNATIONAL APPLICATION NO.

PCT/JP04/05456

I.A. FILING DATE

04/16/2004

PRIORITY DATE

04/18/2003

000513  
 WENDEROTH, LIND & PONACK, L.L.P.  
 2033 K STREET N. W.  
 SUITE 800  
 WASHINGTON, DC 20006-1021

CONFIRMATION NO. 1755

371 FORMALITIES LETTER



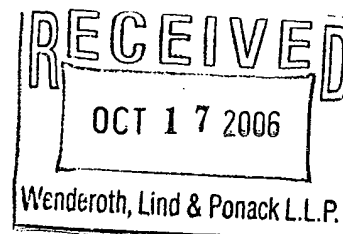
\*OC000000020846348\*

Date Mailed: 10/16/2006

### NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 10/17/2005
- English Translation of the IA filed on 10/17/2005
- Copy of the International Search Report filed on 10/17/2005
- Copy of IPE Report filed on 10/17/2005
- Preliminary Amendments filed on 10/17/2005
- Information Disclosure Statements filed on 01/13/2006
- Oath or Declaration filed on 11/03/2005
- Request for Immediate Examination filed on 10/17/2005
- U.S. Basic National Fees filed on 10/17/2005
- Priority Documents filed on 10/15/2006
- Power of Attorney filed on 10/17/2005



The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Translation of the application into English. The current translation of the application into English is defective as described below. Note a processing fee will be required if submitted later than 30 months from the priority date.
  - I need the translation of the article 34 annexes, claims 1 to 12, to process this application.
- Processing fee of \$130 for providing the translation of the application and/or the Annexes later than 30 months from the priority date (37 CFR 1.492(i)).

SUMMARY OF FEES DUE:

Total additional fees required for this application is \$130 for a Large Entity:

- ~~\$130~~ for English translation surcharge required.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

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PART 1 - ATTORNEY/APPLICANT COPY

| U.S. APPLICATION NUMBER NO. | INTERNATIONAL APPLICATION NO. | ATTY. DOCKET NO. |
|-----------------------------|-------------------------------|------------------|
| 10/553,320                  | PCT/JP04/05456                | 2005_1592A       |



IAP15 Rec'd PCT/PTG 06 DEC 2006  
PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of :  
Yoshiko TAKAYAMA et al. : **Mail Stop: PCT**  
Serial No. 10/553,320 : Attorney Docket No. 2005\_1592A  
Filed October 17, 2005 :

AGENT FOR REPAIRING CORNEAL PERCEPTION  
[Corresponding to PCT/JP2004/005456  
Filed April 16, 2004]

**RESPONSE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is responsive to the PTO Notification of Missing Requirements dated October 16, 2006.

The Notice requires the filing of a translation of the Article 34 annexes, claims 1-12, to process this application. This requirement is respectfully traversed.

MPEP 1893.01(a)(3) states that annexes for which translations are not timely received will be cancelled. A copy of this page is enclosed.

Applicants do not wish to file a translation of annexes nor have the annexes entered.

Accordingly, cancellation of the annexes, and withdrawal of the requirement is respectfully requested.

Respectfully submitted,

Yoshiko TAKAYAMA et al.

THE COMMISSIONER IS AUTHORIZED  
TO CHARGE ANY DEFICIENCY IN THE  
FEES FOR THIS PAPER TO DEPOSIT  
ACCOUNT NO. 23-0975

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December 6, 2006

page(s). Alternatively, applicant may submit a preliminary amendment in accordance with 37 CFR 1.121.

### **1893.01(a)(3)Article 34 Amendments (Filed with the International Preliminary Examining Authority) [R-3]**

Amendments to the international application that were properly made under PCT Article 34 during the international preliminary examination phase (i.e., Chapter II) will be annexed by the International Preliminary Examining Authority to the international preliminary examination report (IPER) and communicated to the elected Offices. See PCT Article 36, PCT Rule 70.16, and MPEP § 1893.03(e). If these annexes are in English, they will normally be entered into the U.S. national stage application by the Office absent a clear instruction by the applicant that the annexes are not to be entered. However, if entry of the replacement sheets will result in an obvious inconsistency in the description, claims or drawings of the international application, then the annexes will not be entered. If the annexes are in a foreign language, a proper translation of the annexes must be furnished to the Office not later than the expiration of 30 months from the priority date, unless a period has been set pursuant to 37 CFR 1.495(c) to furnish an oath or declaration, < \* English translation of the international application, >search fee (37 CFR 1.492(b)), examination fee (37 CFR 1.492(c)), or application size fee (37 CFR 1.492(j)), < in which case the translations of the annexes, accompanied by the processing fee set forth in 37 CFR 1.492(f), may be submitted within the period set pursuant to 37 CFR 1.495(c). See 37 CFR 1.495(e). Annexes for which translations are not timely received will be considered canceled. Amendments made under PCT Article 34 to the international application after commencement and entry into the U.S. national phase (see MPEP § 1893.01) will not be considered in a U.S. national stage application. However, applicants may still amend the U.S. national stage application by way of a preliminary amendment submitted in accordance with 37 CFR 1.115 and 37 CFR 1.121.

Where an English translation of the annexes is provided, the translation must be such that the translation of the originally filed application can be changed by

replacing the originally filed application page(s) (of translation) with substitute page(s) of translation of the annex. Thus, applicant should check to be sure that the English translation can be entered by substituting the pages of translation for corresponding pages of the claims of the international application without leaving an inconsistency. If entry of the page of translation causes inconsistencies in the specification or claims of the international application the translation will not be entered. Non-entry of the annexes will be indicated on the "NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903). For example, if the translation of the originally filed application has a page which begins with claim 1 and ends with a first part of claim 2 with the remainder of claim 2 on the next page then translation of the annex to only claim 1 must include a substitute page or pages beginning with the changes to claim 1 and ending with the last of the exact same first part of claim 2. This enables the original translated first page of claims to be replaced by the translation of the annex without changing the subsequent unamended page(s). Alternatively applicant may submit a preliminary amendment in accordance with 37 CFR 1.121. The fact that an amendment made to the international application during the international phase was entered in the national stage application does not necessarily mean that the amendment is proper. Specifically, amendments are not permitted to introduce "new matter" into the application. See PCT Article 34(2)(b). Where it is determined that such amendments introduce new matter into the application, then the examiner should proceed as in the case of regular U.S. national applications filed under 35 U.S.C. 111(a) by requiring removal of the new matter and making any necessary rejections to the claims. See MPEP § 608.04 and § 2163.06.

### **1893.01(c) Fees [R-3]**

Because the national stage fees are subject to change, applicants and examiners should always consult the *Official Gazette* for the current fee listing.

Fees under 37 CFR 1.16 relate to national applications under 35 U.S.C. 111(a), and not to international applications entering the national stage under 35 U.S.C. 371. National stage fees are specifically provided for in 37 CFR 1.492. However, an authoriza-